

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - Khammam District- Revision Petition filed by Sri Gadaparthi Ramachandram @ Chandram S/o Narsaiah R/o Mandalapalli(V) Dammapeta (M) Khammam District - against the Orders of the Additional Agent to Government in C.M.A No:26/2003, dated:28-6-2008 in respect of Acres 1.02 guntas in Survey No:80/8 of Mandalapalli (V) Dammapeta (M) - Allowed - Orders - Issued.

SOCIAL WELFARE (LTR-2)DEPARTMENT

G.O.MS.No. 7

Dated:31 .01.2013
Read the following:

1. Revision Petition filed by Gadaparthi Ramachandram @ Chandram S/o. 05.10.2008.
2. Govt.Memo.No.9840/LTR-2/2008, dt.12.01.2009 addressed to the Additional Agent to Government & Project Officer, ITDA, Bhadrachalam, Khammam District.
3. From the Addtional Agent to Government & Project Officer, ITDA, Bhadrachalam, Khammam District ref.RP.No.9840/Land Transfer Regulation-2/08, dt.13.02.2009.
4. Govt.Lr.No. 9840/LTR-2/2008, dt.16.04.2012, 26.06.2012 & 19.10.2012.

ORDER:

Sri Gadaparthi Ramachandram @ Chandram S/o Narsaiah R/o Mandalapalli(V) Dammapeta (M) Khammam District in the reference 1st read above has filed Revision Petition before the Government against the orders of the Additional Agent to Government, R/o Mandalapalli (V) Dammapeta (M) Khammam District in CMA No.26/2003 dated 28.06.2008 in respect of Acs.1.02 guntas in Sy.No.80/8 of Mandalapalli (V) Dammapeta (M), Khammam District.

2. The main grounds of the Appellant in Revision Petition among others are as given below:

- (i) The possession of the property is since long prior to Regulation in pursuant to the transaction took place on 30.06.1963. The said transaction was not disputed by respondents 4-6 (S/Sri A.Nageswara Rao, A.Prasad and A.Chinna)
- ii) While dismissing the appeal directing the Tahsildar to take over possession of the schedule land is not justified.
- iii) As per the APSALTR, 1959 the said property is liable for restoration to the respondents 4-6 and on their refusal only the property shall vest with the Government.

3. In the reference 2nd read above, Addl. Agent to Govt. & Project Officer, ITDA, Bhadrachalam, Khammam District was requested to furnish parawise remarks and connected records.

4. The matter stood thus, the petitioner filed W.P. 22931 of 2008 before the Hon'ble High Court and the Court in its order dt.21.10.2008, while disposing the writ petition directed the 1st respondent i.e., Principal Secretary to Government (Tribal Welfare) to consider the revision filed by the petitioner and pass appropriate orders and ordered that there shall be status quo existing as on this day with regard to the possession of the land in dispute till disposal of the revision or the stay application, whichever is earlier.

(P.T.O)

5. The Additional Agent to Govt. & Project Officer, ITDA, Bhadrachalam, Khammam District has furnished parawise remarks and connected records vide reference 3rd read above.

6. The Revision Petition has been posted for hearing on 30.4.2012, 10.7.2012 and finally on 29.10.2012, the same has been informed to Petitioner and the Respondents and requested them to attend the said hearings in the reference 4th read above. On 29.10.2012 the Revision Petitioner/Counsel were present and they were directed to submit written arguments along with authenticated original documents. Accordingly, the Revision Petitioner has submitted the written arguments and other document.

7. Government have examined the records and order of the Additional Agent to Government, Khammam District in C.M.A No.26/2003 dt.28.06.2008 and written Arguments submitted by the Revision Petitioner. The Additional Agent to Government in his remarks has stated that the case was initiated by the Special Deputy Collector (Tribal Welfare) Paloncha vide case No.307/90/DPT on the report of Special Revenue Inspector. After notices were issued and hearing both the parties and based on the recorded evidence, the Special deputy Collector, (Tribal Welfare) Paloncha has passed the ejectment order against to Sri Gadaparthi Ramachadram (Non-tribal) as the transfer of immovable property belonging to the scheduled tribe was made to the non tribal in contravention of sub-sec.3 as laid in the APSALTR, 1959 r/w 1/70 after commencement of the said regulation and it is null and void and directed the MRO to take possession under cover of panchanama and assigned to the tribal as per rules.

8. Aggrieved by the orders of Special Deputy Collector (Tribal Welfare) Paloncha, Sri Gadaparthi Ramachandram S/o. Narsaiah has filed appeal before the Addl. Agent to Govt. Bhadrachalam, and the case was registered vide I.A.No. 26/2003. Sri Gadaparthi Ramachandram (Non-Tribal) deposed that the schedule property was purchased on 30-6-1963 and without considering the documents, the lower court passed the orders. The Addl. Agent to Govt. after giving opportunity and documentary evidence held that Sri Gadaparthi Ramachandram (Non-Tribal) had filed one Photostat copy of alleged sale deed Dated.30-6-1963 since it is not original document nor a registered document to consider his claim. Further perused after perusal of the pahani copies for 1979-80 and 2000-2001, the Additional Agent to Government concluded that the appellant has to file pahani copies from the date of purchase to show his possession, without filling the adangals pahanies for the relevant period the appellant claim cannot be accepted. Further the L.R. receipts also cannot substantiate his claim his name not recorded in the enjoyer column, the ryot pass book is purely blank with a signature, hence the documents filed by the appellant is not sufficient of his claim. The Tahsildar, Dammamapeta is directed to take over possession of the suit land in to the Government custody under cover of panchanama by evicting whoever is in the possession of the suit land and distribute the same to the eligible tribals and dismissed the case vide IA No. 26/2003, Dated: 28-6-2008.

9. In the Revision Petition/Written Arguments, the Revision Petitioner has contended that he has purchased the suit land from Sarvasri Adapa Venkataramaiah and others through an unregistered Sale Deed Dated: 30-6-1963 i.e., much prior to the commencement of Land Transfer Regulation 1/70 and the said land is under his continuous possession and enjoyment till date. That, even though no tribal interest is involved in the suit land, the Special Deputy Collector (Tribal Welfare) Bhadrachalam has taken up the case suo moto and passed orders Dated: 26-10-2012 in Land Transfer Regulation Case No. 307/90/DPT, for his ejection from the suit land. That, aggrieved by the said orders, he has filed appeal before the Appellate authority and there

also, without adhering to his arguments with regard to his claim over the suit land and without considering the copies of evidences produced by him such as Sale Deed, which was never denied by the un official respondents, Revenue receipts for the years 1965-1967 and pahanies etc., confirmed the orders of the lower court. The Revision Petitioner also stated that he is a landless poor person and having only the suit land under his possession to eke his livelihood.

10. Government on perusal of the Record and other material papers made available in the file, it is found that the point that injustice has been done to the Revision Petitioner cannot be denied, mere on the ground that the Sale Deed produced by him is unregistered instruments. He has also furnished the Revenue receipts for the years prior to Land Transfer Regulation 1/70 and it appears that no tribal interest is involved in the suit land, moreover, the suit land was purchased much before 1/70. As stated by the Revision Petitioner the vendors never contested the claim of the Revision Petitioner. The lower court authorities have not denied the point that the Revision Petitioner is LLP and possess only this piece of land for his livelihood. It is seen from the record, that the revenue authorities have taken up the case during 1990 i.e., after a lapse of nearly two decades of the commencement of Land Transfer Regulation 1/70, whereas the record speaks that the Revision Petitioner is in possession of the land since 1963. Eviction of the Revision Petitioner from the suit land, on the reasons specified in the lower court orders, at this point of time, appears to be not just, when no tribal interest is involved.

11. Government after careful examination of the facts of the case, hereby order to set aside the orders of the Additional Agent to Government, Bhadrachalam, Khammam District in I.A No.26/2003 Dated: 28.06.2008 in respect of the suit land Acs.1.02gts in Sy.No.80/8 of Mandalapalli Village, Dammamet Mandal, Khammam District and the claim of the Revision Petitioner on the Petition Schedule land is allowed, subject to Land Transfer Regulation 1/70.

12. The Collector, Khammam District/Additional Agent to Government, Bhadrachalam, Khammam District is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.A.VIDYASAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Govt., Khammam District.

The Additional Agent to Government & Project Officer, ITDA
Bhadrachalam, Khammam District with RPAD of the following records.
(Case File I.A.No.26/2003.)
The Special Deputy Collector (Tribal Welfare), Khammam District.

Copy to:
Gadaparthi Ramachandram @ Chandram S/o Narsaiah R/o Mandalapalli(V)
Dammapeta (M) Khammam District .
The G.P for Social Welfare, High Court of A.P.Hyderabad.
The P.S to Minister (TW) for information/the P.S to the Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER